

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DISTRICT

CARMEN EVANS,

Plaintiff,

CASE NO.
HON.

v.

ZACHARY ROSSO, ANDREW NGO,
in their individual and official capacities,
TRIPLE CANOPY, INC., jointly and severally,

Defendants.

DAVID A. ROBINSON (P38754)
BRANDON MCNEAL (P81300)
ROBINSON & ASSOCIATES, P.C.
Attorneys for Plaintiff
28145 Greenfield Rd., Suite 100
Southfield, MI 48076
(248) 423-7234
davidrobinsonlaw@gmail.com
mcnealbr@gmail.com

MATTHEW I. HENZI (P57334)
ASHERKELLY, PLLC
Attorney for Defendants
25800 Northwestern Highway, Suite
1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

THOMAS E. KUHN (P37924)
Co-Counsel for Plaintiff
645 Griswold Street, Suite 1900
Detroit, MI 48226
313.963.5222
tekuhn@aol.com

NOTICE OF REMOVAL

NOW COME Defendants, Zachary Rosso (“Rosso”), Andrew Ngo (“Ngo”), and Triple Canopy, Inc. (“Triple Canopy”) (collectively “the Defendants” or “Defendants”), by and through their attorneys, ASHERKELLY P.L.L.C., and for

their Notice of Removal from the Circuit Court for the County of Wayne, State of Michigan, to this Court, pursuant to 28 USC §§1331, 1441, and 1446, state as follows:

1. The above-entitled action was commenced in the Circuit Court for the County of Wayne, State of Michigan, and is now pending there under Case No. 20-006579-NO (true and correct copies of the Summons and Complaint are attached hereto as **EXHIBIT A**). Wayne County lies within the Eastern District of Michigan, Southern Division. See 28 USC § 102.

2. The instant action against Defendants is a civil action alleging Federal Claims, including alleged violations of the United States Constitution, 42 USC §1983, et. seq., and other Federal law. (See Plaintiff's Complaint attached hereto as **EXHIBIT A**).

3. The instant action is one for which the United States District Courts are given original jurisdiction pursuant to 28 USC §1331 by reason of a federal question.

4. Plaintiff did not serve Defendants Ngo and Rosso.

5. Plaintiff attempted service on the corporate Defendant, only, on June 3, 2020, by mailing a copy of the Complaint to the Defendant's office located in Herndon, Virginia. However, pursuant to MCR 2.105 service on a Foreign Corporate Defendant is not properly effectuated unless a summons and a copy of

the complaint is served on a director, trustees, or person in charge of an office or business establishment of the corporation and sending a summons and a copy of the complaint by registered mail, addressed to the principal office of the corporation. *See* MCR 2.105(2). Therefore, Plaintiff's June 3, 2020 mailing did not properly serve the corporate Defendant.

6. Defendants were served on June 22, 2020, when Defendants' counsel, Matthew Henzi, sent correspondence to Plaintiff's Counsel, David Robinson, which acknowledged and accepted service on behalf of all Defendants as of that date. (See Mr. Henzi's email to Mr. Robinson attached as **EXHIBIT B**).

7. For the reasons stated above, the time for filing the within notice has not yet expired, since Defendants were not served until June 22, 2020.

8. At the time of the commencement of this action, and at the time of filing this Notice, Plaintiff was and still is alleged to be a citizen of the State of Michigan. (See Plaintiff's Complaint attached as **EXHIBIT A**).

9. At the time of the commencement of this action, and at the time of filing this Notice, Defendant Triple Canopy does business in the State of Michigan. (See Plaintiff's Complaint attached as **EXHIBIT A**).

10. At the time of the commencement of this action, and at the time of filing this Notice Defendants Rosso and Ngo are citizens of the State of Michigan. (See Plaintiff's Complaint attached as **EXHIBIT A**).

11. Because the United States District Court for the Eastern District of Michigan, Southern Division, has original jurisdiction over Plaintiff's claims against the Defendants in this matter, Defendants are entitled to seek and obtain Removal pursuant to 28 USC §1331, 1441, and 1446.

12. Pursuant to 28 USC §1441(c), the Defendants request that the United States District Court for the Eastern District of Michigan, Southern Division, determine all issues in Plaintiff's Complaint.

13. Copies of all process, pleadings and orders served on Defendants in the Circuit Court for the County of Wayne, State of Michigan, with regard to Case No. 20-006579-NO are attached hereto and marked as **EXHIBIT A**.

14. Removal of the Plaintiff's action against all Defendants to the United States District Court for the Eastern District of Michigan, Southern Division, is appropriate.

WHEREFORE, Petitioners/Defendants, ROSSO, NGO, and TRIPLE CANOPY respectfully request that Plaintiff's action against these Defendants be removed from the Circuit Court for the County of Wayne, State of Michigan, to the United States District Court for the Eastern District of Michigan, Southern Division.

Respectfully submitted,

AsherKelly

By: /s/ Matthew I. Henzi
MATTHEW I. HENZI (P57334)
Attorney for Defendants
25800 Northwestern Highway, Ste. 1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

Dated: July 21, 2020

PROOF OF SERVICE

Cheryl Krause says that on the 21st day of July, 2020, she served a copy of the foregoing documents on counsel of record via electronic mail to the following:

DAVID A. ROBINSON
davidrobinsonlaw@gmail.com

BRANDON MCNEAL
mcnealbr@gmail.com

THOMAS E. KUHN
tekuhn@aol.com

I hereby declare that the statement above is true to the best of my knowledge, information and belief.

By: /s/ Cheryl Krause

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DISTRICT

CARMEN EVANS,

Plaintiff,

CASE NO.
HON.

v.

ZACHARY ROSSO, ANDREW NGO,
in their individual and official capacities,
TRIPLE CANOPY, INC., jointly and severally,

Defendants.

DAVID A. ROBINSON (P38754)
BRANDON MCNEAL (P81300)
ROBINSON & ASSOCIATES, P.C.
Attorneys for Plaintiff
28145 Greenfield Rd., Suite 100
Southfield, MI 48076
(248) 423-7234
davidrobinsonlaw@gmail.com
mcnealbr@gmail.com

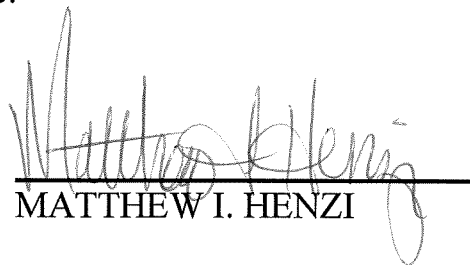
MATTHEW I. HENZI (P57334)
ASHERKELLY, PLLC
Attorney for Defendants
25800 Northwestern Highway, Suite
1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

THOMAS E. KUHN (P37924)
Co-Counsel for Plaintiff
645 Griswold Street, Suite 1900
Detroit, MI 48226
313.963.5222
tekuhn@aol.com

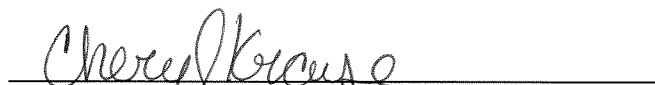
AFFIDAVIT IN SUPPORT OF REMOVAL

STATE OF MICHIGAN)
) ss:
COUNTY OF OAKLAND)

MATTHEW I. HENZI, being first duly sworn, deposes and says that he is an attorney at law associated with the firm of ASHERKELLY, PLLC, and that, as such, has principal charge of the above-entitled matter, that he has read the foregoing Notice of Removal by him subscribed, and that the matters contained in the Notice are true, except as to those matters made upon information and belief, and as to those matters, he believes them to be true.


MATTHEW I. HENZI

Subscribed and sworn to before me
this 21st day of July, 2020.


Cheryl Krause
Notary Public, Macomb County, MI
My commission expires: 7/7/2025
Acting in Oakland County

CHERYL KRAUSE
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jul 7, 2025
ACTING IN COUNTY OF Oakland

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARMEN EVANS,

Plaintiff,

CASE NO. 20-006579-NO
HON. JOHN H. GILLIS, JR.

v.

ZACHARY ROSSO, ANDREW NGO,
in their individual and official capacities,
TRIPLE CANOPY, INC., jointly and severally,

Defendants.

DAVID A. ROBINSON (P38754)
BRANDON MCNEAL (P81300)
ROBINSON & ASSOCIATES, P.C.
Attorneys for Plaintiff
28145 Greenfield Rd., Suite 100
Southfield, MI 48076
(248) 423-7234
davidrobinsonlaw@gmail.com
mcnealbr@gmail.com

MATTHEW I. HENZI (P57334)
ASHERKELLY, PLLC
Attorney for Defendants
25800 Northwestern Highway, Suite
1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

THOMAS E. KUHN (P37924)
Co-Counsel for Plaintiff
645 Griswold Street, Suite 1900
Detroit, MI 48226
313.963.5222
tekuhn@aol.com

NOTICE OF FILING NOTICE OF REMOVAL

**TO: Clerk of the Court
Wayne County Circuit Court
All Counsel of Record**

PLEASE TAKE NOTICE that on July 21, 2020, Defendants in the above entitled action, filed in the United States District Court for the Eastern District of Michigan, Southern Division, a Notice of Removal of the above entitled action to said United States District Court from the Circuit Court for the County of Lenawee, State of Michigan, pursuant to 28 USC §1446, together with a filing fee as required by law. Copies of this Notice are attached hereto and served herewith.

Notice is further given that on July ____, 2020, the above entitled Defendants filed a copy of said Notice of Removal and supporting documents with the Clerk of the Circuit Court for the County of Wayne, State of Michigan, as required by law.

Respectfully submitted,

AsherKelly

By: /s/ Matthew I. Henzi
MATTHEW I. HENZI (P57334)
Attorney for Defendants
25800 Northwestern Highway, Ste. 1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

Dated: July 21, 2020

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CARMEN EVANS,

Plaintiff,

CASE NO. 20-006579-NO
HON. JOHN H. GILLIS, JR.

v.

ZACHARY ROSSO, ANDREW NGO,
in their individual and official capacities,
TRIPLE CANOPY, INC., jointly and severally,

Defendants.

DAVID A. ROBINSON (P38754)
BRANDON MCNEAL (P81300)
ROBINSON & ASSOCIATES, P.C.
Attorneys for Plaintiff
28145 Greenfield Rd., Suite 100
Southfield, MI 48076
(248) 423-7234
davidrobinsonlaw@gmail.com
mcnealbr@gmail.com

MATTHEW I. HENZI (P57334)
ASHERKELLY, PLLC
Attorney for Defendants
25800 Northwestern Highway, Suite
1100
Southfield, MI 48075
(248) 746-2762
mhenzi@asherkellylaw.com

THOMAS E. KUHN (P37924)
Co-Counsel for Plaintiff
645 Griswold Street, Suite 1900
Detroit, MI 48226
313.963.5222
tekuhn@aol.com

PROOF OF SERVICE

Cheryl Krause says that on the ____ day of July, 2020, she served a copy of the foregoing documents on counsel of record via electronic mail to the following:

DAVID A. ROBINSON
davidrobinsonlaw@gmail.com

BRANDON MCNEAL
mcnealbr@gmail.com

THOMAS E. KUHN
tekuhn@aol.com

I hereby declare that the statement above is true to the best of my knowledge, information and belief.

By: /s/ Cheryl Krause